

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

JARI HILPIPRE,

Complainant,

and

KANDY MORETTO,

Respondent.

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Charge No.: 2009SH4199

HUD No.: 05-09-1255-8

ALS No.: 10-116

Judge Lester G. Bovia, Jr.

RECOMMENDED ORDER AND DECISION

This matter came to be heard after the Commission entered a default order against Respondent on March 10, 2010. On two separate occasions, this matter was scheduled for a status hearing for the purpose of scheduling a public hearing on damages. Though duly served, neither Complainant nor Respondent appeared, either personally or through counsel, at either status hearing. Accordingly, this matter is now ready for disposition.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. Complainant filed a charge with the Department on June 8, 2009, alleging that Respondent subjected her to unlawful handicap discrimination in connection with Complainant's efforts to rent housing from Respondent.
2. Because Respondent filed no verified response to the charge, and filed no request for review of the Department's resulting finding of default, the Commission entered a default order against Respondent on March 10, 2010. The Commission then referred this matter to the Administrative Law Section for a public hearing on damages.

3. By order dated March 22, 2010, this matter was scheduled for a status hearing on May 25, 2010. The March 22 order advised, "Both parties shall appear [for status on May 25], as a date for the damages hearing will be scheduled."
4. The Commission served Complainant and Respondent with the March 22 order at the addresses listed in the record file. The Commission served Respondent at two different addresses: one in Peoria, Illinois and one in Bartonville, Illinois. The mailing to Respondent's Peoria address was returned as undeliverable. However, the mailing to the Bartonville address was not returned. The mailing to Complainant's address also was not returned.
5. Though duly served, neither party appeared at the May 25 status hearing, either personally or through counsel. Thus, by order dated May 25, 2010, this matter was scheduled for another status hearing on June 22, 2010. The May 25 order advised, "Both parties must appear [for status on June 22], as a date for the damages hearing will be scheduled." (Emphasis in original.) Furthermore, the May 25 order warned that, "Failure of a party to appear at the Commission's scheduled hearings without requesting a continuance reasonably in advance, or unreasonably refusing to comply with a Commission order, or otherwise engaging in conduct which unreasonably delays or protracts proceedings, may result in default or dismissal of the case and/or the imposition of sanctions as justice may require, including requiring the offending party or attorney to pay the reasonable expenses and attorneys' fees incurred by any other party as a result of the misconduct."
6. The Commission served Complainant and Respondent with the May 25 order at the addresses provided in the record file, although Respondent was only served at her Bartonville address. Neither of the mailings was returned as undeliverable.
7. Though duly served, neither party appeared at the June 22 status hearing, either personally or through counsel.

CONCLUSIONS OF LAW

1. Pursuant to the Commission's March 10, 2010 default order, Respondent is liable for violating the Illinois Human Rights Act's ("Act") prohibition of unlawful discrimination in real estate transactions. See 775 ILCS 5/3-102.
2. Because Complainant has presented no evidence of any damages that she has sustained as a result of Respondent's discriminatory conduct, Complainant is not entitled to a damages award in this matter.
3. In light of the finding of liability against Respondent, the Commission should order Respondent to cease and desist from further acts of unlawful discrimination.

DISCUSSION

Per the Commission's March 10, 2010 default order, Respondent is liable for the acts of handicap discrimination alleged in Complainant's charge. After finding a respondent liable for violating the Act, the Commission may enter an order requiring that respondent to pay damages to the complainant as reasonably determined by the Commission. Muhammad and Prof'l Staffing Servs., IHRC, ALS No. 08-346, March 17, 2009. However, neither Complainant nor Respondent appeared at either of the status hearings to set a date for a public hearing on damages. Therefore, Complainant has proffered no evidence of any damages that she has sustained as a result of Respondent's discriminatory conduct.

In default cases where a complainant has proffered no evidence of damages, the Commission's usual practice is to affirm the finding of default nonetheless but award the complainant no damages. See, e.g., Jackson and Citgo Gas Station, IHRC, ALS No. 04-403, January 4, 2006. This practice furthers the public interest by enabling the Commission to order a respondent to cease and desist from further acts of unlawful discrimination. Id. The Commission's usual practice as articulated in Jackson is appropriate for this matter as well.

RECOMMENDATION

Based on the foregoing, I recommend that the Commission: 1) affirm the finding of default against Respondent; 2) award Complainant no damages; and 3) order Respondent to cease and desist from further acts of unlawful discrimination.

HUMAN RIGHTS COMMISSION

BY: _____

**LESTER G. BOVIA, JR.
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION**

ENTERED: July 1, 2010